IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.1660 OF 2002

Ahmed R. Currim & Ors. ...Petitioners.
Vs.
The State of Maharashtra & Ors. ...Respondents.

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Mr. N. H. Seervai, Senior Advocate with Mr.F. Pooniwale i/b. M& M Legal Venture for the Petitioners.
Mr. M. D. Naik, AGP for Respondent No.1.
Mr. R.M. Sawant for Respondent No.4A.
Mr. H. Toor i/b. Crowford Bayley for Respondent No.5.
Mr. Sandeep Parikh i/b. Prakash & Co. for Respondent Nos.6 and 7.
Mr. P.K. Samdani with Mr. V. R. Dhond i/b. Prakash & Co. for Respondent Nos.8 and 9.

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CORAM : F.I. REBELLO, J. AND
DR.D.Y.CHANDRACHUD, J.

October 20, 2005.

P.C.

Petitioner Nos.1 to 10 are tenants/occupiers of premises comprised in a property known as Chheda Sadan, bearing City Survey No.1560, which is situated at Sipahimalani Marg, Churchgate, Mumbai-400 020. The Eleventh Petitioner is a Co-operative Society proposed to be formed of tenants/occupiers. The Petitioners together with certain other occupiers moved a

proposal for the acquisition of the property under Section 103B of the Maharashtra Housing and Area Development Act, 1976. During the pendency of the proceedings, a Writ Petition was filed before this Court, being Writ Petition No.2228 of 1992, in which an order was passed on 15th March 1993 by a Division Bench of this Court. Before the Division Bench, the relief that was pressed was for the completion of the acquisition proceedings in accordance with law under Chapter VIIIA of the Act. The order of the of the Division Bench reads as follows:

> "The Petitioners are limiting their reliefs in this Petition only to the completion of acquisition proceedings in accordance with law under Chapter VIII-A of the Maharashtra Housing and Area Development Act, 1976. Learned Government Pleader who appears for the State is willing to have the land acquisition proceedings completed within a reasonable time. In these circumstances, it is not necessary to look at any of the other issues raised in the Petition. If the Petitioners have any other grievances, it is open to them to take appropriate steps for the redressal of such grievances in accordance with law. In this view of the matter, we are not passing any order in the Chamber Summons which is taken out by the applicant Miss S.K. Bharucha, the President of the Oval Cooperage Residents' Association for intervention because these issues are not being pressed in the present petition.
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> The 8th Respondent namely the Special Land Acquisition Officer is directed to pass appropriate orders in accordance with law in the proceedings for acquisition pending before him under Chapter VIII-A of the Maharashtra Housing and Area Development Act, 1976,

> after hearing all the concerned parties or or before 15.9.1993. Any inspection which he may require to take in this connection should be completed by him after notice to all concerned parties within one month from today.
>
> If the Special Land Acquisition Officer is required to consider any report of the Collector or the Government relating to authorised/unauthorised structures, a notice thereof shall be given to the applicant and the applicant shall be heard before any decision is taken in that behalf. The Government, before submitting a report (if it has been already been submitted), shall given a hearing to the applicant before submitting a report, in addition to such other parties as the Government may consider proper. Such report to be submitted on or before 15.6.1993, if it has not already been submitted. Copies of the report to be given to all the concerned parties including the applicant."

In these proceedings the relief which has been sought is for an order restraining the SLAO from proceeding further with the acquisition under Chapter VIIIA until he furnishes to the Petitioners copies of certain reports mentioned in Exh.NNN and inspection of documents referred to in Exh.OOO of the Petition.

The proceedings for acquisition are pending before the SLAO. On behalf of the private Respondents, an objection has been raised to the nature of the disclosure that is sought in Exh.NNN and Exh.OOO to the Petition, on the ground that a

fishing enquiry is sought to be made in bald and general terms. During the course of the proceedings, Counsel for the Petitioners has submitted that the inspection of documents that is sought would be necessary in order to enable the Petitioners to demonstrate (i) the condition of the building at the material time; (ii) the numerical strength of the occupiers who support the proposal; and (iii) that proposal for acquisition was duly supported by the consent of 75% of the occupiers. It was urged that the original premises in the building have been illegally subdivided by the property owner in order to defeat the plea for acquisition.

We are of the view that it would not be appropriate or proper for the Court to enter upon the merits of the rival allegations since the proceedings are still pending before the SLAO. At this stage, the Petitioners are, however, justified in seeking an inspection of the relevant documents which have a bearing on the proposal for acquisition from the files of the SLAO, the Repair Board and the Mumbai Municipal Corporation. The Learned AGP appearing on behalf of the SLAO and the Repair Board has stated before the Court that there is no objection to the grant of inspection to the Petitioners of the file(s) relating to the acquisition

proceedings in respect of the building in question, including in respect of such of those documents mentioned in Exh.OOO which are available on the record. Counsel appearing on behalf of the Municipal Corporation has also stated that the Petitioners would be granted inspection of the assessment record of the Municipal Corporation relating to the building in question. Counsel appearing on behalf of the BEST states that in the event that the Petitioners seek a disclosure of any specific document in relation to the supply of electricity to the building in question or the premises therein, inspection would be granted to the Petitioners.

In the circumstances, this petition is disposed of with the following directions:

-(1) The SLAO and the Repair Board shall grant inspection to the Petitioners of the record in relation to the proposal for acquisition of the building in question within a period of four weeks from today. This shall include such of the documents listed out in Exh.OOO as are available. The Petitioners would be at liberty to take copies upon the payment of usual charges;

-(2) The Municipal Corporation shall within a period of four weeks grant inspection of the assessment record of the building in question to the Petitioners and copies of such extracts as are required subject to the payment of usual copying charges;

-(3) In the event that an inspection is sought of any specific document(s) from BEST, inspection thereof shall be granted to the Petitioners within four weeks of the date of a specific request. Copies shall be provided on the payment of usual copying charges;

-(4) The Petitioners would be at liberty to file any additional reply/representation as they may seek before the SLAO within eight weeks from the date of this order;

-(5) The SLAO will be at liberty to take further steps in accordance with law thereafter; and

-(6) All rights and contentions of the parties on merits are kept open to be urged before the SLAO.

The Petition is accordingly disposed of.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)